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Report of the Special Rapporteur on the situation of human rights in Belarus, Miklós Haraszti*

Summary

In the report, the Special Rapporteur sets forth the developments in human rights since his previous report (A/HRC/26/44). The Special Rapporteur outlines major current concerns in detail and describes the general situation, which for the past two decades has been characterized by a systemic denial of human rights to citizens by means of an intentional combination of restrictive laws and abusive practices. The findings of the Special Rapporteur during the period under review indicated that, while no substantial reform was discernible and violations continued, the legal and administrative environment for the enjoyment of human rights had further deteriorated, in particular with regard to the rights to free expression, association and assembly, to just and favourable conditions for work and to the freedom to choose one's workplace. The Special Rapporteur concludes the report with recommendations on improving the situation, both step-by-step and in a comprehensive manner.

* Late submission.

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Contents

		Paragraphs	Page
I.	Introduction	1 – 20	3
	A. Background	1 – 16	3
	B. Methodology	17 – 20	4
II.	Rule of law	21 – 27	5
III.	Engagement with the international human rights system	28 – 33	6
IV.	Human rights concerns	34 – 126	7
	A. Independence of the judiciary	34 – 40	7
	B. Independence of lawyers	41 – 42	8
	C. Torture and other cruel, inhuman or degrading treatment or punishment	43 – 47	9
	D. Prison conditions	48 – 52	10
	E. Arbitrary arrest and detention	53 – 62	11
	F. Imprisonment of political opponents, human rights defenders and activists	63 – 65	12
	G. Enforced disappearances	66 – 67	12
	H. Death penalty	68 – 75	13
	I. Freedom of opinion and expression	76 – 86	14
	J. Freedom of peaceful assembly	87 – 90	15
	K. Freedom of association and human rights defenders	91 – 101	16
	L. Elections	102 – 104	18
	M. Trade unions	105 – 108	18
	N. Just and favourable conditions of work	109 – 111	19
	O. Forced labour	112 – 114	19
	P. Discrimination	115 – 125	20
	Q. Cultural rights	126	22
V.	Conclusion and recommendations	127 – 131	22

I. Introduction

A. Background

1. The Human Rights Council established the mandate of the Special Rapporteur on the situation of human rights in Belarus in its resolution 20/13. The current mandate holder assumed his functions on 1 November 2012. The Council has twice extended the mandate for one year, in its resolutions 23/15 and 26/25.

2. In the present report, the Special Rapporteur describes the prevailing situation of human rights in Belarus since his previous report to the Human Rights Council (A/HRC/26/44). It covers information received up until 30 March 2015.

3. The findings of the Special Rapporteur for the period under review brought to light the fact that the situation of human rights in Belarus has not improved, and that widespread disrespect for human rights, in particular civil and political rights, continues. The Special Rapporteur is concerned about the lack of progress made to address the systematic and systemic denial of human rights.

4. Important areas of human rights governance have deteriorated in Belarus, inter alia, the legal, regulatory and administrative environment for the Internet and the media. The rights to freedom of assembly and association have been further limited by new restrictive provisions.

5. The practice of short-term detention of activists, journalists and human rights defenders has continued and increased. Administrative and "preventive" arrests continue to be used systematically and arbitrarily against citizens who seek to exercise independently and freely their rights to freedom of expression, association and peaceful assembly.

6. Compared to previous years, fewer persons were incarcerated for long prison terms in retaliation for their political activities; nonetheless their situation has remained unchanged. Among them, a former presidential candidate has remained behind bars since 2011. Besides Ales Bialiatski, two political prisoners were released in 2014, albeit after having served their full prison terms. Nothing has been done to review any of their cases or to rehabilitate them.

7. A highly dissuasive, permission-based regime is still the main tool used to deny civil rights and to curtail the freedoms of expression and opinion, information, association and peaceful assembly, which are all key factors in full and inclusive participation in public life. The permission-based regime is further aggravated by the criminalization of all unsanctioned public undertakings and organizations, aimed at dissuading participation in and support for such associations; indeed, mere attendance at events of this type may lead to criminal or administrative charges and discrimination in various aspects of life.

8. The judiciary continues to be fully dependent on the President, in spite of some recent reforms. Besides the lack of independence of the courts and law enforcement agencies, intimidation is used against lawyers, who are forced to join the bar association that is directly supervised by the Government.

9. Labour rights continue to be denied, and independent labour unions are suppressed. The rights to just and favourable work conditions and to the freedom to choose one's workplace have been further restricted by new legal provisions.

10. The Special Rapporteur also noted that there has been little or no progress with regard to developments welcomed in the past, such as the stated intention to establish a national human rights institution and a parliamentary working group on the death penalty.

11. The absence of a national human rights institution is one of the reasons why the institutional setting for the promotion and protection of human rights in the country remains deficient. In 2010, the Government accepted a recommendation made during its universal periodic review on considering the establishment of a national human rights institution in accordance with the Paris Principles. The Special Rapporteur notes that, although according to a report issued by the Ministry of Foreign Affairs (http://mfa.gov.by/upload/UPR_Belarus_National_Report.pdf), discussions thereon are ongoing, after four years Belarus has still not established such an institution.

12. The Special Rapporteur found no information on progress made by the parliamentary working group on the death penalty established in 2010. In the meantime, capital punishment continues to be used in Belarus with no guarantee of due process. In 2014, three persons were executed, and a new death sentence was pronounced on 18 March 2015.[1]

13. The unwillingness of the Government to address chronic human rights concerns and the absolute impunity for human rights violations contribute to their perpetuation. The Special Rapporteur has underlined the systemic and systematic nature of human rights violations in Belarus in his previous reports. The United Nations High Commissioner for Human Rights had earlier concluded that deficiencies pertaining to human rights in Belarus were of "a systemic nature" (A/HRC/20/8, para. 74). The regrettable lack of governmental cooperation on the mandate underlines the need to report on and monitor the situation of human rights in Belarus.

14. It is therefore critical that the Human Rights Council maintain its scrutiny of the serious human rights situation in Belarus, even more so in the light of the presidential elections to be held at the end of 2015.

15. With the incumbent president having been in office for nearly 20 years and the absence of an opposition in Parliament, there has been a pattern of mass-scale pressure on and harassment against civil society actors in Belarus amounting to recurring violence, specifically during or in the immediate aftermath of presidential and parliamentary elections and the announcement of their preordained outcomes. The most recent example was the presidential election held on 19 December 2010, when more than 600 people were detained and dozens of civil society activists, journalists, politicians and their supporters were arrested. Several observers, researchers and human rights experts are concerned about similar severe human rights violations in the electoral process if circumstances of free and fair elections are not guaranteed. Indeed, the Special Rapporteur highlights the direct correlation between a freely functioning civil society and the enjoyment of the right to genuine periodic elections guaranteeing the free expression of the will of the electors, in accordance with article 25 (b) of the International Covenant on Civil and Political Rights.

16. It is also with the presidential elections in mind that the Special Rapporteur addresses recommendations to the Government in order to protect human rights in the context of the elections. He reiterates his readiness to cooperate with the authorities.

B. Methodology

17. Independence, impartiality and objectivity, and cooperation with all stakeholders are the guiding principles of the work conducted by the Special Rapporteur.

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[1] European Union delegation to the United Nations, "Statement by the Spokesperson on a death sentence in Belarus", 19 March 2015.

18. Owing to the Government's continued refusal to cooperate with the Special Rapporteur, he has yet to have access to the country; nevertheless, he has continued to seek the cooperation of the Government in order to engage in a constructive dialogue. He sought meetings with the Permanent Representatives of Belarus to the United Nations in New York and Geneva, and submitted requests for an official visit to the country. The Special Rapporteur has received no response to any of his correspondence, and again deplores that this situation limits the collection and analysis of first-hand information from in-country sources, including from the Government.

19. Notwithstanding such constraints, the Special Rapporteur endeavoured to collect information from primary sources, which is crucial to ensure that his report is as accurate, time-bound and measured as possible. He frequently undertook consultations with victims of violations, representatives of civil society, human rights experts and diplomats. If the Special Rapporteur were authorized to visit the country, he would be able to develop findings on the proclaimed successes in the sphere of economic and social rights, including through a dialogue with the Government and other stakeholders.

20. The Special Rapporteur is grateful for the cooperation received from many stakeholders living in Belarus. In the present report, he refers to cases that are emblematic of the nature of the human rights violations in Belarus. They do not, however, reflect the full list of allegations submitted to the Special Rapporteur.

II. Rule of law

21. As in previous reporting periods, presidential decrees continue to be used as the main legislative mechanism in Belarus (A/HRC/23/52, para. 37; A/HRC/26/44, para. 21). While Parliament is responsible for developing and adopting legislation, it is the Presidential Administration that prepares the drafts. President's decrees can overrule existing legislation, including constitutional law, on any issue. The Special Rapporteur for example noted this in the context of Presidential Decree No. 6 of 29 November 2013 on the improvement of the judicial system, as confirmed by information given on the website of the Brest Regional Court (www.oblsud.vbreste.by).

22. A recent example is Presidential Decree No. 18, which outlines how courts should apply legislation on the recognition and execution of judgements handed down by foreign courts and arbitral awards, issued on 23 December 2014 by the Plenary of the Supreme Court. The purpose of the decree, as described in the preamble thereto, was to ensure "the unity of legal practice in the application of international treaties and to improve the administration of justice during the consideration of cases concerning the recognition and execution of judgements handed down by foreign courts or arbitrages (arbitral courts) in the Republic of Belarus by courts of general jurisdiction of the Republic of Belarus."[2]

23. The introduction of new or revised legislation or adoption of amendments does not result from a consultative process, despite frequent requests by civil society organizations to be included in the process.

24. A law on the judicial proceedings of the Constitutional Court (www.kc.gov.by), which came into force on 17 April 2014, allows bodies other than those listed in article 116, part 4 of the Constitution, including government bodies, other organizations and citizens collectively or individually, to submit requests to the Court for an advisory opinion on

[2] Belarusian Helsinki Committee et al. Analytical review of the human rights situation in Belarus, October–December 2014 (available at http://belhelcom.org/en/node/19697), p. 15.

legislative acts. The Court may also initiate proceedings on its own initiative (art. 158). In its annual report for 2014, the Court stated that it received 780 requests under the new law and had examined three cases, of which two on labour law and one on pensions. The report does not, however, provide disaggregated data, and the decisions of the Court are not made public.

25. With regard to positive developments in national legislation, the amendments to the law on public associations and on political parties, which came into force on 20 February 2014, allow in part for the reduction in the required number of founders from various regions required to establish a public organization and increased requirements for the dissolution of public associations (A/69/307, para. 45). The permission-based process itself of registering associations has, however, not changed, allowing for arbitrary, selective and politicized decisions on registration.

26. On 17 December 2014, the Parliament passed amendments to the law on mass media, allowing the Government to increase significantly its pressure on the independent media.[3] The amendments provide in particular that owners of online resources are responsible for the content posted, including material considered to be extremist information or "other information capable of harming the national interests" of Belarus; the Ministry of Information may block access to online resources without court authorization if two warnings have been issued within 12 months and the scope for reasons to issue warnings has been expanded. There are also concerns that the requirement for accreditation will be used to restrict journalists' access to information.[4]

27. Except for the requirement of registration, the law on mass media as amended will also be fully applicable to online media. Specifically, authorities in Belarus have stated that the "dissemination of information that may …pose a threat to national security may result in the blocking of websites."[5]

III. Engagement with the international human rights system

28. Over the years, various international human rights mechanisms have made recommendations to bring legislation, policies and practice into line with the commitments of Belarus under international human rights law. The implementation of these recommendations remains very limited.

29. The Special Rapporteur notes that two national consultations were held in 2014 with the aim of implementing the recommendations from the first universal periodic review of Belarus, to which only registered non-governmental organizations were invited to attend. Follow-up documents were not made available to the public.[6] The Special Rapporteur also notes that, in the preparation of the second review of Belarus, only registered non-governmental organizations were consulted.

30. Since the previous report of the Special Rapporteur, a number of cases have been filed under the Optional Protocol to the International Covenant on Civil and Political Rights. At its 112th session, in October 2014, the Human Rights Committee adopted views

[3] Viasna Human Rights Center, "Situation of Human Rights in Belarus in December 2014", 13 January 2015.

[4] Coalition report submitted on 15 September 2014 by Belarusian non-governmental organizations for the second universal periodic review of Belarus, p. 9.

[5] Viasna, "Situation of Human Rights in Belarus" (see footnote 3).

[6] Coalition report (see footnote 4), p. 3.

on 12 communications with regard to Belarus, most of which regarding the freedoms of association, assembly and expression.[7]

31. Belarus has continued to challenge the registration of cases filed under the Optional Protocol on procedural grounds. To date, the Human Rights Committee has not been satisfied by the measures taken by the State party to give effect to its recommendations.

32. The Special Rapporteur welcomes the adoption by Belarus of the optional reporting procedure of the Human Rights Committee.

33. The Special Rapporteur encourages Belarus to respond positively to the requests by special procedures to visit the country, including the Special Rapporteur on torture and other cruel, inhuman or degrading treatment or punishment, the Special Rapporteur on the promotion and protection of the right to freedom of opinion and expression and the Special Rapporteur on the situation of human rights defenders.

IV. Human rights concerns

A. Independence of the judiciary

34. Although Presidential Decree No. 6 of November 2013, aimed at reforming the judicial system of Belarus, was a welcome step, it was reported that, as at the end of 2014, none of the changes removing the powers established in the Code of Judicial System and Status of Judges had been effectively introduced.[8]

35. The Special Rapporteur remains concerned at the extensive powers of the General Directorate for Relations with Legislative and Judicial Bodies and Issues of Citizenship and Pardon, included within the Presidential Administration, which submits proposals regarding the appointment and dismissal of judges and other related judicial functions for the President's consideration.[9] The Special Rapporteur on the independence of judges and lawyers has recommended that a body similar to models found in other countries under the title of Judicial Council, Council of Judges or Supreme/High Council of Judges be established in Belarus (see E/CN.4/2001/65/Add. 1). The Special Rapporteur encourages the implementation of that recommendation and the establishment of such a body, which would be composed mainly of judges and perform the functions currently carried out by the General Directorate.

36. The Special Rapporteur notes the positive development represented by the adoption on 20 December 2013 of Order No. 11, which is aimed at increasing transparency in the

[7] See CCPR/C/112/D/1773/2008 (Kozulina v Belarus), CCPR/C/112/D/1906/2009 (Yuzepchuk v Belarus), CCPR/C/112/D/1929/2010 (Lozenko v Belarus), CCPR/C/112/D/1952/2010 (Symonik v Belarus), CCPR/C/112/D/1987/2010 (Stambrovsky v Belarus), CCPR/C/112/D/1989/2010 (E.V v Belarus), CCPR/C/112/D/1999/2010 (Evrezov, Nepomnyaschikh, Polyakov and Rybchenko v Belarus), CCPR/C/112/D/2029/2011 (Praded v Belarus), CCPR/C/112/D/2114/2011 (Sudalenko v Belarus), CCPR/C/112/D/2153/2012 (Kalyakin v Belarus), CCPR/C/112/D/2156/2012 (Nepomnyaschikh v Belarus) and CCPR/C/112/D/2165/2012 (Pinchuk v Belarus).

[8] Belarusian Helsinki Committee, Independence of the Judiciary in the Republic of Belarus, 2014, pp. 4-5.

[9] Coalition report (see footnote 4), p. 7.

judicial system and ensuring the dissemination of information on the work of the courts, and encourages the courts to adopt the provisions of the Order.[10]

37. In particular, the process for appointing judges should be as transparent as possible. The executive authorities continue to play a significant role in the appointment of judges. The majority of judges are also often appointed for a short tenure, a fact that increases their dependence on the executive authorities that appoint them.

38. The Special Rapporteur calls upon the authorities of Belarus to make public the guidelines they use for the selection and appointment of judges. While decrees relating to the appointment of judges are public, the criteria used to reach these decisions remain unknown to both the general public and candidates for judicial office.[11]

39. Since January 2007, the Code of Judicial Systems and Status of Judges has required judges to be appointed for a term of five years; judges may also be appointed for a further term, or indefinitely.[12] The Special Rapporteur notes with concern that this has led to fewer judges being appointed to tenured positions, and the negative impact this could have on judicial independence.

40. With regard to the dismissal of judges, the President retains extensive powers to dismiss a sitting judge without taking into considerations any further opinions, and "to apply a disciplinary penalty on judges without any public or legally defined procedure of examination".[13]

B. Independence of lawyers

41. United Nations human rights mechanisms, including the universal periodic review, have repeatedly called upon Belarus to respond to the concerns of defence lawyers and to address the pattern of intimidation against lawyers and of interference in their work (see A/HRC/15/16, paras. 50 and 98.26). The continued failure to address this issue has had a chilling effect on the independence of lawyers.[14] Like other special procedures mandate holders, the Special Rapporteur is concerned by the frequent targeting of lawyers working on human rights cases (A/68/276, para. 97). He reiterates his call upon Belarus to restore the licences of lawyers revoked after they represented candidates in the 2010 presidential elections.[15]

42. Domestic legislation, including Presidential Decree No. 12, undermines the independence of the legal profession by subordinating lawyers to the control of the Ministry of Justice and introducing obligatory membership in a State-controlled bar association. The Special Rapporteur calls upon Belarus to take all appropriate measures, including a review of the Constitution and laws, to meet the international minimum standards as set out in the

[10] Coalition report (see footnote 4), p. 8.

[11] Belarusian Helsinki Committee, Independence of the Judiciary in the Republic of Belarus, 2014, p. 5.

[12] Ibid., p. 7.

[13] Eastern Partnership Civil Society Forum, Judicial Independence in the Eastern Partnership Countries, 2011, p. 20.

[14] CAT/C/BLR/CO/4, para. 12 (a); A/HRC/17/30/Add.1, para. 101; A/HRC/23/52, para. 64; A/68/276, para. 76; A/HRC/25/55/Add.3, para. 61.

[15] See also CAT/C/BLR/CO/4, para. 12(c); E/CN.4/2001/65/Add.1, para. 123 (c); and A/HRC/23/52, paras. 65 and 119 (f).

Basic Principles on the Role of Lawyers so as to ensure that judges and lawyers are independent of any political or other external pressure.[16]

C. Torture and other cruel, inhuman or degrading treatment or punishment

43. The Special Rapporteur notes that Belarus has yet to make declarations under articles 21 and 22 of the Convention against Torture and other cruel, inhuman or degrading treatment or punishment and to accede to the Optional Protocol thereto. Taking note of the recent amendments to the Criminal Code and the Code of Criminal Procedure, he calls upon Belarus to implement the recommendations made by the Committee against Torture[17] and to integrate fully a definition of torture in accordance with the Convention into all relevant legislation.

44. An effective mechanism for the investigation of complaints of torture by prisoners or detainees is still lacking in Belarus. Officials accused of engaging in torture or ill-treatment are not suspended while investigations are conducted. Furthermore, there are reports that complaints cannot be submitted to the Prosecutor's Office from places of detention and that complainants are punished by solitary confinement or other measures of physical and psychological maltreatment. With regard to prosecuting alleged acts of torture, to date there has been no successful prosecution in the domestic courts of individuals accused of torture or order to compensate victims for the harm caused.[18]

45. The Special Rapporteur encourages the Government to develop an independent and effective mechanism to facilitate the submission of complaints by victims of torture and ill-treatment to public authorities in accordance with the recommendations made by the Committee against Torture.[19]

46. The human right defender Ales Bialiatski was released by the authorities in June 2014. The Special Rapporteur notes with concern that, while in custody, Mr. Bialiatski was subjected to psychological and physical pressure while deprived of liberty and to repeated arbitrary forms of disciplinary punishment for allegedly violating the rules of the penal colony. Punishment included limited access to relatives, lawyers, correspondence and communications, and practices that could be viewed as amounting to ill-treatment or even torture.

47. The Special Rapporteur reiterates that as Belarus moves towards the next presidential election in 2015, it is worrying that none of the previously alleged cases of torture of political candidates, activists and human rights defenders while in detention has been clarified by the authorities. These cases include allegations of torture and ill-treatment of the 2010 presidential candidates Andrei Sannikau, after his arrest on 19 December 2010.

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[16] See also CCPR/C/79/Add.86, para. 14; Official Records of the General Assembly, Fifty-sixth Session, Supplement No. 4 (A/56/44), paras. 45 (g) and 46 (d); CAT/C/BLR/CO/4, para 12; E/CN.4/2001/65/Add.1, paras. 116 and 123 (b); E/CN.4/2005/6/Add.3, paras 45 and 82 (a); E/CN.4/2005/35, paras. 33 and 93; A/HRC/20/8, para. 75 (i); A/HRC/23/52, para. 67; and A/68/276, para. 118 (g).

[17] See Coalition report (see footnote 4), pp. 5-7; and CAT/C/BLR/CO/4.

[18] Coalition report (see footnote 4), p. 6.

[19] See Follow-up to the concluding observations (CAT/C/BLR/CO/4) of the Committee against Torture adopted at the 47th Session for the Republic of Belarus; report prepared by the Belarusian public initiative "Human Rights Activists Against Torture" in partnership with the Belarusian Human Rights House and the Human Rights House Foundation, March 2014.

and Ales Mikhalevich, at the high security prison in January 2011 (A/69/307, para. 71). Another case is that of Ihar Tsikhanyuk from the human rights organization Lambda, which protects the rights of LGBTI persons. In 2012, Mr. Tsikhanyuk was reportedly taken to a police station where he was punched, abused and threatened with violence.[20] To date, there has been no investigation into these cases or attempts to bring those responsible to justice.

D. Prison conditions

48. Article 62 of the Constitution and article 41 of the Code of Criminal Procedure codify the legal right of citizens of Belarus to legal assistance and counsel. Despite this legal safeguard, the Special Rapporteur recognizes the continued complaints of detainees that they are often denied prompt access to counsel while in detention.[21]

49. The Special Rapporteur also notes similar complaints relating to prompt access to physicians. While there is legislation in place that provides for the medical examination of injured detainees by health-care workers, care may only be accorded at the discretion of the head of the facility. Appealing a refusal of examination can take more than 10 days during which time the physical harm caused might be healed. Furthermore, detainees are required to cover the cost of such medical examinations from their own personal funds, creating a disadvantage for individuals without any such funds.[22]

50. Detainees have also lodged complaints relating to their inability to contact family members while in detention, as exemplified through the experiences of the political prisoners Mikalai Statkevich and Ihar Alinevich. Both reported that letters had been rejected by prison censorship, and that letters from and to family members were not being delivered.[23]

51. The Special Rapporteur received information that, in October 2014, the Department for the Execution of Judgments of the Ministry of the Internal Affairs had issued a permit for Platforma Innovation, a non-governmental organization, to visit penitentiary institutions in Belarus.[24] This is a welcome development. The Special Rapporteur stresses the importance of unfettered access to all places of detention, which should include police cells, detention centres, security service premises, administrative detention areas, detention units of medical and psychiatric institutions and prisons.

52. The Special Rapporteur is concerned that the Mahiliou Human Rights Center, the only human rights organization with a representative who is a member of the public supervisory commission monitoring penal institutions, is under constant pressure to cease activities by the authorities.[25]

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[20] Amnesty International Cases Document, 2 December 2013.

[21] Follow-up to the concluding observations (CAT/C/BLR/CO/4) of the Committee against Torture (see footnote 19), p. 2.

[22] Ibid.

[23] Viasna, "Situation of Human Rights in Belarus" (see footnote 3).

[24] Civic Belarus, "'Platforma' is going to visit all prisons and penal colonies in Belarus", 22 October 2015.

[25] Viasna Human Rights Center, "Belarus: The only registered regional human rights organisation under the threat of dissolution", 17 March 2015.

E. Arbitrary arrest and detention

53. The Special Rapporteur received credible allegations of a persistent and expanding practice of preventive arrests, administrative arrests and arbitrary detention of citizens in the period immediately preceding important political or social events. This practice has been used in Belarus since 2006,[26] and has become systemic.

54. According to documented information provided by a non-governmental organization, all records with regard to the administrative prosecution of protestors and opposition representatives were broken in the first half of 2014. Most cases were associated with preventative arrests before and after conducting peaceful demonstrations or gatherings on civil and political rights (A/69/307, para. 66). The policy continued throughout the year, characterized by the use of repeated short-term "preventive" and administrative arrest of members of human rights organizations.

55. There is an emerging pattern in the misuse of these measures to discourage public civic activism in the whole of society; for example, Pavel Vinogradov, an activist from youth organization Zmena, was arrested 15 times in 2014. The most common reasons for arrest of activists were for "swearing in public", "hooliganism" or "failure to obey police officers orders", or all three charges simultaneously, which leads to cumulative sanctions.

56. At least 37 political activists were arrested before the World Ice Hockey Championship held in Minsk in May 2014. All of those arrested had been involved in protest actions, and included representatives of various social and political groups, such as Malady (Young) Front, web activists, and members of football fan clubs.[27]

57. Prior to the World Ice Hockey Championship, local authorities also "cleansed" Minsk of what were referred to as "asocial elements", namely, homeless persons, sex workers, and individuals suffering from alcoholism. While the exact number of persons subjected to this practice is not known, the Ministry of Internal Affairs reported that at least 350 prostitutes had been subjected to administrative arrest during this period of time.[28]

58. The Special Rapporteur also received reports that, in 2014, eight activists had been subjected to preventive detention prior to the annual demonstration Chernobyl Way, held on the anniversary of the Chernobyl power plant disaster.[29]

59. The activists and former political prisoners Zmitser Dashkevich and Alexander Frantskevich were each sentenced to 25 days of administrative arrest, covering both Chernobyl Way and the World Ice Hockey Championships.[30]

60. Administrative prosecutions also concern other spheres of public life and events. In January 2015, fans of a local football team in Salihorsk were detained for holding an unauthorized fireworks show.[31] It was also reported that, on several occasions, similar arrests were made at rock concerts.

61. The above-mentioned arrests and detentions are justified under section 17.1 of the Code of Administrative Offences, referred to deliberate acts that violate public order,

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[26] International Federation for Human Rights (FIDH), Arbitrary Preventive Detention of Activists in Belarus, 29 September 2014, p. 6.

[27] See ibid and FIDH, Arbitrary Preventive Detention (see footnote 26), pp. 7, 18-19.

[28] FIDH, Arbitrary Preventive Detention (see footnote 26), p. 7.

[29] Ibid., p. 18.

[30] Ibid.

[31] Vadzim Bylina, "Belarusian authorities crack down on football fans", Belarus Digest, 23 February 2015.

Individuals concerned are often not informed of the charges against them, nor are their rights explained, and families are not informed of their detention.[32]

62. Furthermore, in the court hearings of such administrative cases, only the testimony of police officers is used as the basis for court rulings in the case of preventive detentions. Any witnesses brought by the defence are ignored. Hearings are held in closed sessions. Issues concerning the lodging of appeals to the initial decisions of the court were also reported.

F. Imprisonment of political opponents, human rights defenders and activists

63. During the period under review, several long-term political prisoners were released. Ales Bialiatski, founder of the Viasna Human Rights Center, who was sentenced in 2011 on charges of tax evasion, was released in June 2014 after having served three years of his four-and-a-half-year sentence. The Special Rapporteur welcomes his release. He also notes the release of two political prisoners, Vasil Parfiankou and Eduard Lobau, in December 2014, although after they had served their full sentences. None of them was rehabilitated, nor were their cases reviewed. The Special Rapporteur reiterates his call for the immediate and unconditional release of all other opponents and activists whose sentences appear to be politically motivated, and for their full rehabilitation.[33]

64. The Special Rapporteur has been informed that, since June 2014, the list of individuals having been or being held in detention on politically motivated charges include Evgeniy Vaskovich, Igor Olinevich, Vasily Prokopenko and Mikalai Statkevich. Ihar Alinevich, Mikalai Dziadok, Artisom Prakapenka and Yury Rubtsou.[34]

65. The 2010 presidential candidate Mikalai Statkevich remains in detention, serving six years in prison on charges of organizing mass riots, personal violence and resistance to public agents.[35] On 12 August 2014, Andrey Bondarenko, an advocate for prisoner rights from Platforma Innovation, a non-governmental organization, was sentenced to three years in prison for hooliganism.[36] On 22 December 2014, Yury Rubtsou began serving an 18-month sentence, convicted of insulting a judge during an administrative hearing, which was held in closed session.[37] An activist from Gomel, he was first arrested in November 2013 during a demonstration for wearing a T-shirt on which was written "Lukashenko, go away!". He has since been repeatedly sentenced to terms of administrative detention.

G. Enforced disappearances

66. There has been no progress in solving the outstanding cases of enforced disappearance dating back to 1999 and 2000, when Viktar Hanchar, a former member of Parliament, and his associate, Anatol Krasouski, as well as Yury Zakharenko, former Minister of the Interior, and Dimitry Zavadsky, an investigative journalist, were abducted.

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[32] FIDH, Arbitrary Preventive Detention (see footnote 26), pp. 13-15.

[33] OHCHR, "Belarus: 'Rights Defender Ales Bialiatski released, but other political prisoners remain in jail' – UN expert", press release, 24 June 2014.

[34] See Human Rights Watch, Human Rights Watch UPR Submission to UNHRC: Belarus, 17 September 2014, and FIDH, Arbitrary Preventive Detention (see footnote 26).

[35] OHCHR, "Belarus: 'Rights Defender Ales Bialiatski released'" (see footnote 33).

[36] Human Rights Watch, UPR Submission (see footnote 34).

[37] Viasna, "Situation of Human Rights in Belarus" (see footnote 3).

All were noted political opponents of the President. According to numerous testimonies and accounts collected by the Working Group on Enforced or Involuntary Disappearances and the Human Rights Committee, the disappearances, some of which were committed on busy streets, were assisted by actual and former members of the law enforcement agencies. The authorities merely notify the relatives of the victims every three months that there is "no result" in any of the cases and extend the investigation for a further three months.

67. The Special Rapporteur reiterates his call that the fate of the disappeared persons urgently be investigated, given that, until the cases are solved, trust in the judiciary and the public authorities cannot be restored.

H. Death penalty

68. Since 2010, 10 people – Andrei Zhuk, Vasil Yuzepchuk, Andrei Burdyka, Aleh Hryshkavets, Ihar Mialik, Uladzislau Kavaliou, Dzmitry Kanavalau, Rygor Yuzepchuk, Pavel Sialiun and Alyaksandr Hrynou – have been executed in Belarus.[38] In 2014 alone, there were three executions – of Alyaksandr Hrynou, Pavel Syalun and Rygor Yuzepchuk – after a period of 24 months with no executions.

69. The Special Rapporteur is concerned at a new death sentence that was handed down on 18 March 2015 by the Rechytsa district court against Siarhei Ivanou at the end of a trial which had been held in camera.[39]

70. The Special Rapporteur is concerned that death sentences continue to be implemented while individual appeals in these cases have been registered with the Human Rights Committee, and the Government has been informed that emergency proceedings regarding these cases have been launched.[40] When Alyaksandr Hrunou was executed in November 2014, his case was pending before the Committee, which subsequently expressed its concern that Belarus had "executed a person whose complaint was still under consideration by the Committee".[41]

71. Pavel Syalun and Rygor Yuzepchuk were executed in April 2014.[42] The Special Rapporteur notes the statement by Pavel Syalun's mother, who was informed of the execution only when she came to visit her son at the prison, where she was told that "He has departed, in accordance with his sentence" (see A/HRC/26/NGO/113, p. 2). Similarly, the mother of Alyaksandr Hrunou learned of the execution days after it took place, when she received a parcel with his clothes from the penitentiary.

72. The establishment in December 2012 of a parliamentary working group on the death penalty was viewed by the Special Rapporteur as a promising development (A/HRC/26/44, para. 70). However, according to information available, there has not been any progress to date.

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[38] See Coalition report (see footnote 4), p. 4, and Belarus Actions, "Urgent Action: Belarus must stop imminent execution: Eduard Lykau", 11 November 2014.

[39] Council of Europe Parliamentary Assembly, "Death penalty: concern at the latest events in Belarus and Russia", 20 March 2015.

[40] FIDH, Forced Labour and Pervasive Violations of Workers' Rights in Belarus, 20 December 2014, p. 9.

[41] OHCHR, "UN Human Rights Committee deplores Belarus execution", press release, 14 November 2014.

[42] Human Rights Watch, UPR Submission (see footnote 34).

73. During a press conference held in Minsk on 29 January 2015, reported by the agency Minsk Novosti, the President spoke out once again in favour of the death penalty, stating that he was "increasingly inclined to believe that, for wilful killing, we should put a person against the wall".

74. The Special Rapporteur remains concerned that those subject to the death penalty in Belarus are being denied a fair trial,[43] that the date and time of executions are not reported, the bodies of the executed are not returned to relatives and the location of the burial site is not disclosed.[44]

75. At its universal periodic review in 2010, Belarus accepted to respect minimum standards with regard to the death penalty (see A/HRC/15/16, para. 97.23).

I. Freedom of opinion and expression

76. During the period under review, major legal changes further aggravated the situation of the right to free expression and media pluralism, and repressions against independent journalists and publishers continued.

77. The law on mass media has had a negative impact on freedom of expression on the Internet: the authorities arbitrarily block websites containing information that they consider is a threat to State interests. Several Internet sites were blocked on 19 December 2014, prior even to the announced date of entry into force of the new legislation. Access was permanently or temporarily cut to a great number of information websites (including belapan.com, belapan.by, naviny.by, belaruspartisan.org, charter97.org, udf.by, 21.by, gazetaby.com and zautra.by) without any reason given.[45]

78. On 27 March 2015, Belarusian Internet providers blocked Charter97, Belaruspartisan and Viasna, the most important civic news websites. The blocking notice referred to Presidential Decree No. 60 of 2010.[46]

79. The amendments have also had an impact on traditional mass media. Distributors of printed media, including bookshops, and broadcasters must register with the Ministry of Information. Other domestic legislation, such as criminal provisions and anti-extremism laws, are being used to restrict freedom of expression. In particular, the Council of Ministers adopted resolution No. 810 on 21 August 2014, in which it created an expert committee on evaluation of information products for signs of extremism. The Special Rapporteur is concerned about the potentially broad interpretations of "extremism" and "extremist materials" in the implementation of the resolution.[47]

80. The Special Rapporteur also expresses concern at the ongoing attacks on journalists of the independent print and Internet media who face arbitrary arrests, warnings and criminal convictions, as well as administrative prosecutions.

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[43] See A/HRC/26/NGO/113.

[44] OHCHR, "Halt further executions – UN expert calls on Belarus for an immediate death sentence moratorium", press release, 25 April 2014.

[45] Viasna, "Situation of Human Rights in Belarus" (see footnote 3).

[46] BAJ, "Some providers totally block Charter97, Belaruspartisan and Viasna", 27 March 2015.

[47] See Belarusian Helsinki Committee et al. Analytical report, July - September 2014 (available at http://belhelcom.org/sites/default/files/ANALYTICAL%20REPORT%20JULY%20SEPTEMBER.pdf).

81. In the first half of 2014, the authorities arbitrarily detained at least 17 journalists. Charges included "hooliganism", while penalties included courts imposed fines and up to 10 days of detention.

82. The Prosecutor's Office and the State Secretary Committee continued to issue warnings to Belarusian journalists for cooperating with media registered in a foreign country, mostly on the grounds that they had worked without accreditation.[48] In 2014, the Prosecutor's Office issued warnings to six local freelance journalists because they worked with foreign media outlets.[49]

83. On 2 December 2014, a freelance journalist, Andrei Myaleshka from Grodno, was fined 6 million roubles – the third fine in 2014 for the "illegal exercise of journalism in Belarus" – for his work with Radio Razyja, which broadcasts to Belarus from Poland.[50] On 25 September 2014, Maryna Malchanava in Bobruisk was fined for the publication of an article on the website of BelsatTV, a satellite television channel.[51] Tamara Shchepetkina is awaiting trial for similar charges.[52]

84. Despite the requests made for many years by both Radio Razyja and Belsat for official accreditation of their journalists in Belarus, they have constantly received refusals from the Ministry of Foreign Affairs. On 4 September 2014, the Supreme Court prohibited BelsatTV from using the trademark "Belsat" when broadcasting to the territory of Belarus and on the channel website.[53]

85. The Special Rapporteur notes that, on 16 September 2014, police inspected the apartment of journalist Ales Burakou and seized his computer equipment, reportedly in response to the publication of an article by him on the website of broadcaster Deutsche Welle without accreditation from the Ministry of Foreign Affairs.[54]

86. In June 2014, the Representative on Freedom of the Media of the Organization for Security and Cooperation in Europe (OSCE), commenting on the court decision against Andrei Myaleshka, expressed concern at the increasing number of fines imposed on Belarusian journalists for work without accreditation.[55]

J. Freedom of peaceful assembly

87. The Special Rapporteur notes that the authorities in Belarus have continued to adopt further restrictions on public gatherings, including by broadening the definition of "mass events"; establishing criminal liability for organizing such events in violation of the law; new restrictions on where demonstrations may be held; and banning the dissemination of information about public gatherings until the authorities have approved them.[56]

88. The broadening of the legal interpretation of mass events is a cause for grave concern. For example, "unsanctioned events" that trigger administrative liability include

[48] Coalition report (see footnote 4), p. 9.
[49] Human Rights Watch, UPR Submission (see footnote 34).
[50] Civic Belarus, "The price of freedom of speech", 11 December 2014.
[51] Belarusian Helsinki Committee et al., Analytical report (see footnote 47).
[52] Civic Belarus, "The price of freedom of speech" (see footnote 50).
[53] Belarusian Helsinki Committee et al., Analytical report (see footnote 47).
[54] Ibid.
[55] OSCE, "OSCE representative calls on Belarusian authorities to repeal accreditation requirements for journalists", 17 June 2014.
[56] Human Rights Watch, UPR Submission (see footnote 34).

distributing printed materials or carrying out photo shoots. A further restriction is the requirement to complete an application process for such events. Individuals have often been detained and fined for participating in unregistered events.[57] There have also been reports of cases of detention and prosecution for participating in previously approved events.[58]

89. The Special Rapporteur notes reports that the authorities in Belarus banned more than 10 peaceful assemblies scheduled for Human Rights Day 2014.[59]

90. On 27 July 2014, Aliaksandr Makaeu was detained by police officers for having raised a white-red-white flag for the release of political prisoners during the public prayer on Nezalezhnasci square in Minsk.[60] In November 2014, on the traditional commemoration day of *Dziady*, the deputy chairman of the Conservative Christian Party, Yuri Belenki, was charged with having violated the prescribed procedure for the organization of processions, despite the fact that the procession had been authorised by the Minsk city executive committee.[61] On 22 January 2015, some 15 people lit candles and laid flowers at the monument of the Ukrainian poet Taras Shevchenko in Minsk. Participants were detained and five people were sentenced to administrative arrests from five to 15 days.[62]

K. Freedom of association and human rights defenders

91. Since the establishment of the mandate on the situation of human rights in Belarus, the Special Rapporteur has noted that, in Belarus, the right to freedom of association is severely restricted in law and practice and that violations of that right have become systematic.

92. At its universal periodic review in 2010, Belarus accepted various recommendations relating to improving its observance of freedom of association and legal conditions for the activities of civil society. Despite this, there have been no improvements with regard to freedom of association in Belarus; indeed, since 2010, new legal acts and laws have been adopted that restrict freedom of association and virtually disable civil activism.[63]

93. The Special Rapporteur commends Belarus for the amendments adopted on 20 February 2014 to the law on public associations and on political parties, which reduced the number of founders from various regions required to establish a public organization, and also increased requirements for their dissolution. However, these improvements hardly compensate for the numerous administrative hurdles obstructing civil society organizations from functioning.

94. Three main restrictions effectively cripple the right to freedom of association: the permission-based rules on registration; the ensuing widespread refusal of registration; and the criminalization of unregistered civil activities and funding. All public activities and events require prior authorization by different government levels. The registration of a civil society organization is a legal prerequisite for any activities conducted by it. Registration is

[57] Ibid.

[58] Viasna, "Situation of Human Rights in Belarus" (see footnote 3).

[59] Ibid.

[60] Belarusian Helsinki Committee et al. Analytical report (see footnote 47).

[61] Belarusian Helsinki Committee et al. Analytical review (see footnote 2), p. 7.

[62] Charter 97, "Participants of rally in memory of 'Heavenly Hundred Heroes' in Minsk sentenced to arrests", 23 January 2015.

[63] Joint written submission by a coalition of national non-governmental organizations on "Freedom of associations and legal conditions for civil society organizations (CSOs) in Belarus" (available at www.lawtrend.org/wp-content/uploads/2014/09/UPR_Belarus_II_2015-03.09.2014.pdf), p. 2.

permission- rather than notification-based, putting all decisions at the discretion of the authorities. The process of applying for registration is also highly obstructive, involving the requirement to meet a number of complicated and cumbersome administrative requirements, lengthy procedures, lack of transparency, and the selective application of laws and regulations. A common feature of these time-consuming and costly procedures is that their unnecessarily strict requirements allow for a discriminatory refusal of registration by the authorities. Civil society groups are repeatedly and arbitrarily denied registration on various grounds, many of which not even mentioned in the relevant law or regulations.

95. As an illustrative example, in September and November 2014, the Department of Justice of the Mahiliou Regional Executive Committee repeatedly applied to the Regional Court for a suspension of the activities of the Mahiliou Human Rights Centre, which has been engaged in human rights activities for 17 years. The reasons given were "failure to provide documents required for the registration of changes regarding the legal address", and that their actual office space was 0.3 m^2 less than specified in the official documents. On 17 March 2015, the court resumed the consideration of the lawsuit filed by the Department of Justice to close down the organization, and dismissed the case only after a new landlord gave guarantees that he would provide a legal address.[64]

96. Participation in the activities of unregistered associations is criminalized by law, under which persons involved in unregistered groups may be sentenced to up to two years of imprisonment. In addition, unregistered non-governmental organizations are forbidden from receive funding. The described cumulatively forbidding set of regulations is often used for targeted harassment and persecution of human rights activists. In particular, laws on taxation in relation to funding are used to bring criminal charges, as was the case with Ales Bialiatski, who was sentenced to four and a half years in prison for administering foreign funding for Viasna.

97. Administrative harassment, warnings and threats are routinely used to intimidate human rights defenders with the aim to prevent them from carrying out their activities.

98. The Special Rapporteur is particularly concerned about the recent expulsion of the Chairperson of the Centre for Legal Transformation (LawTrend), Elena Tonkacheva, from Belarus on 21 February 2015, and the ban on her re-entry to the country for three years. A deportation order was issued against the human rights defender following the cancellation of her residence permit on 30 October 2014 – an administrative decision based on alleged speed limit violations reported while she was driving her car (see A/HRC/28/63/Add.1, para. 383).[65]

99. The Special Rapporteur is concerned that Viasna, one of the largest non-governmental organizations in the country, has consistently been denied registration since 2003.

100. The Special Rapporteur also notes the death threats received by Leanid Sudalenka, a human rights defender in Gomel.[66] The Special Rapporteur calls upon the authorities in Belarus to conduct a full investigation into these death threats and to afford Mr. Sudalenka protection as stipulated by the Declaration on Human Rights Defenders.

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[64] Viasna, "Court in Mahilou dismisses suit to close human rights NGO", 17 March 2015.

[65] See also OHCHR, "Elena Tonkacheva's deportation shows 'pervasive harassment of rights defenders in Belarus'", 6 March 2015.

[66] Front Line Defenders, "Belarus – Refusal to investigate death threats against human rights defender Mr Leanid Sudalenka and his family", press release, 9 March 2015.

101. The Special Rapporteur reaffirms that Belarus must comply with its international obligations concerning freedom of association and create conditions to guarantee that human rights defenders may do their work in a safe and secure environment.

L. Elections

102. In the light of the forthcoming presidential elections due in 2015, it is particularly worrying that the rights to vote and to be elected at genuine periodic elections are not guaranteed in Belarus (A/68/276, para. 115).

103. Amendment to electoral laws to ban election boycotts were passed by the Council of the Republic on 15 November 2013.[67] The Special Rapporteur calls for the repeal of this amendment and for a reform focusing on ensuring transparency and public participation, and key preconditions for free and fair elections in the Electoral Code, in particular:

- A guarantee of independence of election commissions, including through their pluralistic composition
- Transparent vote counting, including a detailed procedure for full and open observation by election commission members and other stakeholders

104. The Special Rapporteur also highlights the fact that respect for the freedoms of assembly, association and expression and the rule of law are the cornerstone of free and full participation in democratic societies and the precondition for free and fair elections.

M. Trade unions

105. Belarus has for many years been advised to bring its legislative framework on trade unions and strikes into line with the obligation to ensure the freedom of activity of trade unions and the rights to strike, to organize and to collective bargaining.[68] In the annual Global Rights Index released on 19 May 2014 by the International Trade Unions Confederation (ITUC), which rates working conditions in countries according to 97 indicators, Belarus ranked among the 24 "worst countries in the world to work in", in category 5 ("No guarantee of rights").[69]

106. As in the case of associations, the registration and formation of trade unions is impeded. Without registration, trade union activities are banned and the trade union itself faces dissolution. At the 103rd session of the International Labour Organization (ILO), in June 2014, the Conference Committee on the Application of Standards, in an observation on the Right to Organise and Collective Bargaining Convention, 1949 (No. 98), noted "with deep regret" that, despite numerous requests by the ILO supervisory bodies, there had been no tangible measures taken in this regard, and urged the Government to address the issue of registration of trade unions in practice. It also took note of further allegations of anti-union discrimination and interference in public sector enterprises (Granit and the Babruysk plant of tractor parts and units) and requested information on allegations of violations of ILO Conventions Nos. 87 and 98, including the denial of the right to hold pickets and demonstrations, the deregistration of a primary trade union affiliated to the Radio and

[67] Belta, "OSCE/ODIHR not happy with Belarus' plans to ban election boycotts", 15 November 2013.

[68] See E/C.12/1/Add.7/Rev.1, para. 22; E/C.12/BLR/CO/4-6, para. 17; and ILO, 369th Report of the Committee on Freedom of Association (GB.318/INS/5/2), para. 26.

[69] ITUC, "New ITUC Global Rights Index – The world's worst countries for workers", 19 May 2014.

Electronic Workers' Union, and pressure and threats from the authorities against leaders of the Free Metal Workers' Union, communicated by ITUC.

107. Article 30 of Law No. 141-3 on municipal electric transport and the metro system, adopted on 5 May 2014, forbids strikes in that transport sector. A similar provision was included in amendments to the law on railway transport adopted in December 2014. [70]

108. The Special Rapporteur notes that Aliaksandr Varankin, Mikalai Zhybul, Aliaksandr Hramyka and Aleh Shauchenka, members of the Belarusian Free Trade-Union who were fired from the Babruysk plant of tractor parts and units, came before the Babruysk city court on 18 December 2014 charged with participating in an "unsanctioned mass event" (referring to the hunger strike). The judge fined them for their participation in it.[71]

N. Just and favourable conditions of work

109. On 15 December 2014, Presidential decree No. 5 on strengthening the requirements for managers and employees of organizations was signed. The Special Rapporteur is concerned that the decree introduces new disciplinary action and further grounds for dismissal and suspension from work, and expands the grounds for early employer-initiated termination of contracts.[72]

110. As noted by the mandate holder in previous reports, short-term contracts are the rule rather than the exception in various sectors in Belarus. A large proportion of workers (up to 90 per cent – apart from public service and some industrial sectors) are in a precarious situation, threatened with non-renewal of contract, in violation of the International Covenant on Economic, Social and Cultural Rights. Such contracts subject workers to pressure, threats and discrimination (A/HRC/26/44, para. 107).

111. The Committee on Economic, Social and Cultural Rights requested Belarus to revise the system of short-term labour contracts, to abolish forced labour of persons with substance addiction, to ensure the free exercise of rights of trade unions and to guarantee social protection mechanisms (see E/C.12/ BLR/CO/4-6). Belarus should implement the recommendations made by the Committee and enshrine in its legal system the principle of non-discrimination in employment on all grounds, in accordance with international standards.

O. Forced labour

112. On 20 October 2014, the authorities in Belarus announced a plan to introduce measures against sponging (*tuneyadstvo*).[73] "Spongers" are labelled as those that either do not work at all or do not work officially according to government data. A draft decree "on stimulation of employment of citizens", presented to the Council of Ministers on 19 March 2014, provides for taxes on all employable citizens who are not employed and punitive measures against those who do not work.[74] The Special Rapporteur is concerned about the impact of such a scheme on vulnerable persons in society and its contravention of

[70] See http://law.by/main.aspx?guid=150203.

[71] Belarusian Helsinki Committee et al. Analytical review (see footnote 2).

[72] Belarus Digest, "Lukashenka's decree No. 5: a new blow to Belarusian workers", 30 December 2014.

[73] Vadzim Smok, "Belarus may introduce forced labour to fight sponging", Belarus Digest, 29 October 2014.

[74] Belta, "Draft ordinance on employment submitted to Belarus' Council of Ministers", 19 March 2015.

international labour standards, which may lead to a further deterioration in employment conditions and to forced labour.

113. The Special Rapporteur continued to receive reports of individuals who had been forced to work in circumstances unrelated to their occupations or situations, including conscripts, inmates in detention facilities and graduates. The general working population is submitted to a system of *subbotniks* imposed by authorities. In theory, participation in such work is voluntary, even though, in practice, non-participation results in negative repercussions, such as the non-renewal of employment contracts and the revocation of monthly bonuses (A/HRC/26/44, para. 112).

114. The Special Rapporteur recalls that ILO regards the prohibition of forced labour as the cornerstone of international labour law.

P. Discrimination

115. Although the general principles of equality and non-discrimination are guaranteed by article 22 of the Constitution, there is no specific anti-discrimination law or legal provisions encompassing direct and indirect discrimination. A definition of discrimination is found only in the Labour Code.[75] As has been indicated in previous reports, courts do not accept discrimination as a basis for lawsuits (see A/HRC/23/52, para. 96).

116. The Special Rapporteur calls upon the authorities to develop a comprehensive anti-discrimination law in accordance with international standards.

1. Gender

117. The Committee on the Elimination of Discrimination against Women called upon Belarus to consider adopting a law on gender equality or comprehensive anti-discrimination legislation, including a clear definition of all forms of discrimination against women, and to put in place a comprehensive policy to overcome stereotypical attitudes about the roles and responsibilities of women and men in the family and in society (see CEDAW/C/BLR/CO/7, paras. 12 and 18 (a)). Participation in political and public life and in decision-making processes, wage disparities, and access to the labour market on an equal footing are recurrent challenges.[76]

118. With regard to policies to ensure gender equality, including within the framework of the fourth National Plan of Action on Gender Equality (2011-2015), the Special Rapporteur notes the efforts currently under way, but also the recommendations made to the authorities on increasing financial resources for the implementation of the Plan of Action and for the strengthening of the National Council on Gender Policy (see CEDAW/C/BLR/CO/7, paras. 11-12).

119. During the 16 Days of Activism against Gender Violence in 2013, Belarus launched a nationwide public awareness campaign entitled "A house without violence" aimed at

[75] Coalition report (see footnote 4), p. 14.

[76] See E/CN.4/2006/36, para. 66; E/C.12/BLR/CO/4-6, paras. 11 (b) and 12; E/C.12/1/Add.7/Rev.1, para. 23; Official Records of the General Assembly, Fifty-fifth Session, Supplement No. 38 (A/55/38), paras. 355, 359 and 365-366; ibid., Fifty-ninth Session (A/59/38), paras. 351–352 and 357–358; CEDAW/C/BLR/CO/7, para. 32; A/HRC/4/16, para. 43; and A/HRC/15/16, paras. 97.42-97.43.

preventing domestic violence.[77] In its national report prepared for the second cycle of the universal periodic review, Belarus reported that a definition of domestic violence had been introduced into the Law on Basic Actions for the Prevention of Crime adopted on 4 January 2015. The Special Rapporteur calls for the prompt adoption of the draft law on domestic violence, which will provide for the rights of victims to assistance, protection and remedies.

2. Persons with disabilities

120. Efforts have been made for persons with disabilities, in particular with regard to the accessibility of public infrastructure. Persons with disabilities continue to face physical and regulatory barriers, and challenges with regard to access to education and employment, including reasonable accommodation in the workplace, as well as stereotyping.

121. The Special Rapporteur takes note of the draft presidential decree on signing the Convention on the Rights of Persons with Disabilities as reported in the national report prepared for the second cycle of the universal periodic review, and encourages Belarus to ratify the Convention and the Optional Protocol thereto.

3. Roma

122. As raised by the Special Rapporteur in previous reports (see A/HRC/26/44, para. 125), discrimination faced by the Roma is widespread, including in the fields of employment and education. Human rights defenders report having received complaints from the Roma community with regard to cases of unreasonable and arbitrary detention by law enforcement bodies.[78]

4. LGBTI persons

123. Although same-sex relationships are not illegal in Belarus, homophobic discourse is widespread, including in the media. There is no law to protect sexual minorities from discrimination, and homophobic violence is not considered a hate-based crime, even though cases of harassment, discrimination and attacks against LGBTI persons are frequent (A/69/307, para. 84). In May 2014, a young man was attacked while leaving a gay club in Minsk. As a result of the assault, he spent a month in a coma and suffered irreversible injuries. The court convicted the assailant for involuntary homicide to two years and eight months and refused to consider any circumstances of hate crime based on sexual orientation, even though witnesses testified to the homophobic intent of the perpetrator.[79]

124. The Special Rapporteur remains concerned about the particular challenges facing LGBTI defenders, who suffer double discrimination and are frequent targets of violence and abuse, including by law enforcement authorities (A/69/307, para. 84).

5. Persons living with HIV/AIDS

125. The Special Rapporteur takes note of information on efforts to combat HIV/AIDS, including on the fact that antiretroviral therapy is provided through State funds[80] and that harm reduction programmes have been introduced, including opiate substitution therapy.[81] He also draws attention, however, to the need to prohibit discrimination and to repeal or

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[77] See UN-Women, Government commitments (www.unwomen.org/en/what-we-do/ending-violence-against-women/take-action/commit/government-commitments).

[78] Viasna, "Human rights defenders receive more reports on ongoing harassment of Roma", 26 February 2015.

[79] Civic Belarus, "Belarusian Court refuses to admit homophobia", 15 January 2015.

[80] UNAIDS, "Ending the AIDS epidemic in Belarus: joint commitments and joint efforts", 10 February 2015.

[81] UNAIDS, "Opoid substitution therapy and HIV prevention in Belarus", 11 December 2014.

amend laws and policies that perpetuate the stigmatization of persons living with HIV/AIDS (E/C.12/BLR/CO/4-6, para. 24).

Q. Cultural rights

126. In his previous report, the Special Rapporteur raised concerns about the limited use of the Belarusian language in education and cultural life (A/HRC/26/44, para. 126). He is encouraged by the increase in the use of the Belarusian language in public life. He notes for example that, on 21 January 2015, the Minister for Education reported on plans to foster the use of the Belarusian language in education, including the teaching of geography and history in schools in Belarusian.[82] In its annual address in January 2015, the Constitutional Court spoke out in favour of publishing legislative acts in both Russian and Belarusian.[83]

VI. Conclusions and recommendations

127. **The findings of the Special Rapporteur during the period under review revealed that there had been no significant improvement in the overall situation of human rights in Belarus since his previous report to the Human Rights Council. Moreover, the conditions with regard to certain rights have further deteriorated as a result of the adoption of new restrictive provisions, adding up to a long-standing and ongoing regime of structural limitations to the enjoyment of the civil and political rights and the freedoms that are enshrined in the Constitution and in the international commitments of Belarus.**

128. **The Special Rapporteur observes with concern a situation where Belarus approaches another presidential election without having addressed the shortcomings in its human rights governance, which in the past had led to recurring violence around such constitutive civic events.**

129. **Besides the absence of cooperation with the mandate, the Special Rapporteur notes that many recommendations made by United Nations human rights mechanisms have neither been fully implemented nor followed up on. The shortcomings that lead to persistent and systemic violations of human rights should be addressed promptly through swift and effective institutional responses in order to contribute to the strengthening of the national human rights protection system. With this in mind, the Special Rapporteur urges the Government to take measures to implement comprehensively all the recommendations made by the United Nations human rights mechanisms – the treaty bodies, the special procedures, the universal periodic review, and those made by the United Nations High Commissioner for Human Rights. He again reiterates his readiness to cooperate fully with the Government in accordance with his mandate.**

130. **In the light of the above situation, the recommendations made by the Special Rapporteur in his previous report to the Human Rights Council and in his reports to the General Assembly remain valid. Building on those recommendations,[84] the Special Rapporteur wishes to add the recommendations below.**

131. **The Special Rapporteur recommends that the Government of Belarus:**

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[82] Belta, "Zhuravkov: History and geography should be studied in Belarusian", 21 January 2015.

[83] http://kc.gov.by/main.aspx?guid=19095.

[84] See A/HRC/23/52, para. 119; A/HRC/26/44, para. 139; A/68/276, para. 118; and A/69/307, para. 93.

(a) Develop a national human rights plan of action to ensure follow up to and implementation of all recommendations made by the international human rights system, in broad consultation with all human rights-promoting civil society organizations, regardless of their registration status, and the general public. The plan should be comprehensive in scope, reflect the interdependence and indivisibility of all human rights, include specific timelines and benchmarks for implementation, and be based on the close cooperation of the Government with Parliament, civil society organizations, the United Nations system and the international community for its implementation. The Government should also establish a consultative mechanism, such as a national coordinating committee, open to civil society, to conduct the process;

(b) Establish a national human rights institution in accordance with the Paris Principles, with a clear human rights mandate and broad powers for promotion and protection;

(c) Continue to reform the judicial system, including by implementing fully Presidential Decree No. 6, and take further action to remove legal and institutional obstacles to ensure the independence of the judiciary, in accordance with the Basic Principles on the Independence of the Judiciary, as a prerequisite to the rule of law;

(d) Repeal the amendments to laws on elections and referendums of 15 November 2013 banning election boycotts, and take measures to ensure transparency and public participation in electoral processes and, in particular:

(i) Create independent election commissions through pluralistic composition;

(ii) Ensure a transparent vote count in elections, including for its full and open observation by election commission members and other stakeholders;

(e) Create space for effective and full participation in public life and decision making processes, peaceful dissent and dialogue, by fully respecting the right to freedoms of assembly, association and expression, as preconditions for free and fair elections. To that end review, amend and repeal if necessary all laws, in line with recommendations made by the international human rights mechanisms, with the aim to comply with the Constitution and international standards;

(f) Repeal the recent provisions of the law on mass media that extend restrictions on freedom of expression to Internet-based media, and also repeal regulations that grant the Government powers to sanction content in the press or to block Internet resources;

(g) Protect human rights defenders and journalists from harassment, intimidation and violence as a result of their activities, and conduct prompt, impartial and thorough investigation, prosecution and punishment of any such acts;

(h) Release all political opponents, human rights defenders and activists who have been subjected to criminal charges without conditions, and ensure their full rehabilitation, and cease using administrative and criminal charges in retaliation for the exercise of their political and other rights;

(i) Refrain from handing down death sentences and establish an immediate moratorium on the use of the death penalty with a view to its permanent abolition;

(j) Develop a comprehensive anti-discrimination law in accordance with international standards, addressing direct and indirect discrimination;

(k) Amend or repeal legislation not in conformity with international labour standards, including the right of workers to organize themselves, abolish forced and involuntary labour, ensure the free exercise of rights of trade unions, and guarantee social protection mechanisms;

(l) Broaden the scope of cooperation with the United Nations, including the Office of United Nations High Commissioner for Human Rights, to undertake activities reflecting all the recommendations stemming from the human rights system;

(m) Recognize and extend full cooperation to the mandate holder by engaging in a substantive and constructive dialogue, and facilitating a visit to the country.